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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARCIANITA ABUDA,)
Plaintiff,) Case No.: 2:11-CV-01823-KJD-(GWF)
vs.)
CAL-WESTERN RECONVEYANCE)
CORPORATION, WELLS FARGO BANK,)
N.A., DOES I through X and ROE)
CORPORATIONS I through X,)
Defendants.)
AND ALL RELATED CLAIMS)

**ORDER GRANTING WELLS FARGO BANK, N.A.'S
MOTION FOR SUMMARY JUDGMENT ON COUNTERCLAIM FOR
DECLARATORY RELIEF**

Defendant Wells Fargo Bank, N.A.'s ("Wells Fargo") Motion for Summary Judgment (the "Motion") (Doc. 32) came before the Court on June 18, 2012, together with Defendant Cal-Western Reconveyance Corporation's Motion to Dismiss (Doc. 24) and Plaintiff's Motion for Certification (Doc. 23). The Court, having read and reviewed the Motion, the plaintiff's response, Wells Fargo's reply, and the pleadings and papers on file herein, makes the following findings of fact or conclusions of law:

FINDINGS OF FACT

The facts set forth in the Court's Order dated June 18, 2012 (Doc. 56) are incorporated by reference. With respect to Wells Fargo's counterclaim for declaratory relief, the Court finds as follows:

1. On April 9, 2005, Abuda executed an Adjustable Rate Mortgage (the "Note") in the amount of \$269,300.00 with World Savings Bank, FSB ("World Savings") secured by a Deed of Trust on certain real property located at 6158 Natural Slope Street, Las Vegas, Nevada (the "Property"), Clark County Assessor's Parcel No. 163-31-713-046.

2. On or about December 31, 2007, World Savings changed its name to Wachovia Mortgage, FSB. Effective November 1, 2009, Wachovia Mortgage, FSB merged with Wells Fargo and is now known as Wachovia Mortgage, a Division of Wells Fargo.

3. On May 31, 2011, Marcianita Abuda (“Abuda”) recorded with the Clark County Recorder an Affidavit of Fact (the “Abuda Affidavit”), Instrument No. 201105310003244, in which she unilaterally declares her mortgage null and void.

4. Specifically, the Abuda Affidavit asserts that “[t]he monetary claims of approximately \$173,000 (existing first mortgage loan) plus any and all accrued interests, are hereby deemed invalid, null, void and with no legal or lawful standing”

5. The Abuda Affidavit further states that "the lender is placed on official notice that failing to respond in twenty (20) calendar days from the date herein shall result in the lender's and its assigns, default and, thus, shall be considered its acquiescence to the fully Reconveyance of the subject property to Abuda."

6. Additionally, the Abuda Affidavit purports to replace Cal-Western Reconveyance Corporation (“Cal-Western”) as Trustee with Sonia Rodis (“Rodis”), a stranger to Wells Fargo.

7. On June 22, 2011, another party, Alex Soria (“Soria”), recorded with the Clark County Recorder a Deed of Full Reconveyance (the “Reconveyance”), Instrument No. 201106220002855, in which Soria, as “trustee,” purported to fully reconvey, free of all encumbrances, legal title to the subject property to Abuda.

CONCLUSIONS OF LAW

The legal conclusions set forth in the Court's Order dated June 18, 2012 (Doc. 56) are incorporated by reference. With respect to Wells Fargo's counterclaim for declaratory relief, the Court concludes as follows:

1. Wells Fargo has a legally protectable interest in the Property.
2. Abuda is and was without authority to declare Wells Fargo's interest void or unenforceable.
3. Abuda is and was without authority to substitute the trustee under the Deed of Trust.
4. Accordingly, the Abuda Affidavit and the Reconveyance have no legal force or effect.

Based upon the foregoing, findings of fact and conclusions of law, and good cause appearing,

IT IS HEREBY ORDERED that the Motion shall be and hereby is GRANTED;

IT IS FURTHER ORDERED that the Abuda Affidavit and the Reconveyance shall be removed from the Property's chain of title;

IT IS FURTHER ORDERED that the *lis pendens* recorded on the Property on November 2, 2011 as Document No. 201111020002098 with the Clark County Recorder shall be and hereby is expunged.



HONORABLE KENT J. DAWSON
UNITED STATES DISTRICT JUDGE

DATED: 6/29/12